

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 692

Introduced by Assembly Member Chan

February 17, 2005

~~An act to add Section 33128.31 to the Education Code, relating to the Alameda County Office of Education, and declaring the urgency thereof, to take effect immediately. An act to amend Section 17078.54 of the Education Code, relating to school facilities, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 692, as amended, Chan. ~~School districts: reserve for economic uncertainties: Alameda County Office of Education facilities: charter schools.~~

Existing law establishes the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils. Existing law requires a new construction project, in order to be funded under the program, to comply with certain requirements, including, among others, the new construction is to be physically located within the geographical jurisdiction of a school district that has demonstrated construction grant eligibility based on current enrollment data for at least the number of pupils set forth in the per-pupil grant request contained in the application.

This bill would authorize funds from the 2004 Charter School Facilities Account to also fund new construction that is physically located in a high school attendance area with insufficient new construction eligibility provided certain specified criteria is met. The

bill would make an appropriation by authorizing an expenditure from the 2004 Charter School Facilities Account for this new purpose.

~~(1) Existing law requires the State Board of Education to adopt standards and criteria to be used by local educational agencies in the development of annual budgets and the management of subsequent expenditures from that budget.~~

~~Existing law provides that, for the 2003-04 and 2004-05 fiscal years, the requirement for a reserve for economic uncertainties is 1/2 of the percentage for a reserve adopted by the State Board of Education as of May 1, 2003.~~

~~This bill would, in addition, for the Alameda County Office of Education, apply that requirement to the 2005-06 and 2006-07 fiscal years.~~

~~(2) This bill would make a legislative finding and declaration that due to the unique circumstances surrounding the Alameda County Office of Education, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 33128.31 is added to the Education~~
2 ~~Code, to read:~~

3 *SECTION 1. Section 17078.54 of the Education Code is*
4 *amended to read:*

5 17078.54. (a) An eligible project under this article shall
6 include funding, as permitted by this chapter, for new
7 construction of a school facility for charter school pupils, as set
8 forth in this article. A new construction project may include, but
9 is not limited to, the cost of purchasing and retrofitting an
10 existing building, but may not exceed the amounts set forth in
11 subdivision (b).

12 (b) The maximum amount of the funding pursuant to this
13 article shall be determined by calculating the charter school's
14 per-pupil grant amount plus other allowable costs as set forth in

1 this chapter. Funding shall be provided by the authority for new
2 facility construction as set forth in Section 17078.58.

3 (c) To be funded under this article, a project shall comply with
4 all of the following:

5 (1) (A) It shall meet all the requirements regarding public
6 school construction, plan approvals, toxic substance review, site
7 selection, and site approval, as would any noncharter school
8 project of a school district under this chapter, including, but not
9 limited to, regulations adopted by the State Architect pursuant to
10 Section 17280.5 relating to the retrofitting of existing buildings,
11 as applicable.

12 (B) Notwithstanding any provision of law to the contrary,
13 including, but not limited to, subparagraph (A), the board, after
14 consulting with the relevant regulatory agencies, shall, to the
15 extent feasible, adopt regulations establishing a process for
16 projects to be subject to a streamlined method for obtaining
17 regulatory approvals for all requirements described in
18 subparagraph (A), except for the requirements of the Field Act as
19 defined in Section 17281 which shall be complied with in the
20 same manner as any other project under this chapter.

21 (2) (A) It shall fund only new construction to be physically
22 located within the geographical jurisdiction of a school district
23 that has demonstrated construction grant eligibility based on
24 current enrollment data as determined pursuant to Section
25 17072.10, and subdivision (e) of Section 17078.53, for at least
26 the number of pupils set forth in the per-pupil grant request
27 contained in the application.

28 (B) (i) *Notwithstanding any law to the contrary, including, but*
29 *not limited to, subparagraph (A), funds available pursuant to this*
30 *article from the 2004 Charter School Facilities Account may also*
31 *fund new construction that is physically located in a high school*
32 *attendance area with insufficient new construction eligibility,*
33 *provided all of the following are met:*

34 (I) *The attendance area is physically adjacent to one or more*
35 *high school attendance areas with new construction eligibility.*

36 (II) *The applicant receives written approval from the*
37 *superintendent of the school district and the governing board of*
38 *the school district after a formal action is taken by the governing*
39 *board at a regularly scheduled, publicly held school board*
40 *meeting.*

1 (III) *The charter school will serve as a magnet or academy,*
2 *with an expectation that pupils from the attendance areas from*
3 *which the project will draw eligibility will attend the school, or*
4 *the new charter school facility will serve as a magnet or regional*
5 *academy that will improve integration within the district.*

6 (ii) *Applicants under this subparagraph may also include*
7 *charter school applicants that have received preliminary*
8 *apportionments.*

9 (d) Facilities funded pursuant to this article shall have a 50
10 percent local share matching obligation that may be paid by the
11 applicant through lease payments in lieu of the matching share,
12 or as otherwise set forth in this article, including, but not limited
13 to, Section 17078.58.

14 (e) The authority may charge its administrative costs against
15 the respective 2002 or 2004 Charter School Facilities Account,
16 which shall be subject to the approval of the Department of
17 Finance and which may not exceed 2.5 percent of the account.

18 ~~33128.31. Notwithstanding the standards and criteria adopted~~
19 ~~pursuant to paragraph (3) of subdivision (a) of Section 33128, in~~
20 ~~addition to those fiscal years enumerated by Section 33128.3, for~~
21 ~~the 2005-06 and 2006-07 fiscal years, the minimum state~~
22 ~~requirement for a reserve for economic uncertainties for the~~
23 ~~Alameda County Office of Education is one-half of the~~
24 ~~percentage for a reserve adopted by the State Board of Education~~
25 ~~pursuant to Section 33128 as of May 1, 2003.~~

26 ~~SEC. 2. The Legislature finds and declares that a special law~~
27 ~~is necessary and that a general law cannot be made applicable~~
28 ~~within the meaning of Section 16 of Article IV of the California~~
29 ~~Constitution because of the unique circumstances surrounding~~
30 ~~the financial condition of the Alameda County Office of~~
31 ~~Education.~~

32 ~~SEC. 3. This act is an urgency statute necessary for the~~
33 ~~immediate preservation of the public peace, health, or safety~~
34 ~~within the meaning of Article IV of the Constitution and shall go~~
35 ~~into immediate effect. The facts constituting the necessity are:~~

36 ~~In order to apply the minimum state requirement for a reserve~~
37 ~~for economic uncertainties as provided in this act in the 2005-06~~
38 ~~fiscal year, it is necessary that this act take effect immediately.~~